



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,779	02/08/2001	Jean M. Goldschmidt Iki	42390P6482D	6746

7590

10/04/2006

Gordon R. Lindeen III
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER

RAMAN, USHA

ART UNIT	PAPER NUMBER
----------	--------------

2623

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/779,779	Applicant(s) GOLDSCHMIDT IKI ET AL.	
	Examiner Usha Raman	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7-25-06, 9-11-06</u> | 6) <input type="checkbox"/> Other: _____ |

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on July 25th, 2006 and September 11th, 2006 was filed after the mailing date of the Final Office Action on April 13th, 2006. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

2. Applicant's arguments filed July 25th, 2006 have been fully considered but they are not persuasive.

Applicant's arguments stating that the Rosser and Zigmond references are only appropriate within the context of selecting advertisements have been noted. However the examiner respectfully disagrees. First, Zigmond *explicitly* states that the system of selecting and inserting a secondary content can be extended to other applications besides advertisements, including television programs or any other video programming. See column 18, lines 29-37. Second, Rosser merely illustrates the step of selecting one of multiple versions of available content based on most number of characteristics that conform to the user's preferences. For example, if a user preferences indicate that only G rated programs maybe received when airing on NBC, and when multiple versions of the program are available airing on a plurality of networks, Rosser's system teaches that it is better to pick a version that matches two of user's criteria over the version matching only one of the user's criteria (i.e. pick a G rated program airing on NBC rather than a G rated program

airing at any other network). The above example illustrates that Rosser's step of selecting from multiple versions based on the most number of characteristics that correspond to a user's preferences has applications in programs as well as advertisement in the modified system. Furthermore, in regards to applicant's arguments stating that, "Zigmond has no connection with an EPG, no selecting a program", the examiner notes that Zigmond discloses the step of correlating viewer information with EPG information to select the appropriate secondary content. See column 11, lines 30-35. Furthermore, in selecting the *appropriate* secondary content from multiple versions, the receiver has to compare user preferences with the characteristics the plurality of versions available in order to select the appropriate version.

Applicant's arguments stating that, "IN Zigmond there is no mechanism to select the R rated version over the PG rated advertisement for one product" have been noted. However the argument is found irrelevant since Zigmond teaches selecting a PG rated version over an R rated version of a secondary content, and therefore clearly shows the step of identifying rating (PG and R rated version), comparing the rating to the user entered rating (in this case PG) and selecting the PG version based on that.

Applicant's traversal regarding the Goldschmidt reference have been noted.

However the examiner respectfully disagrees. Goldschmidt teaches the step of displaying a program from user's preferred selection source (i.e. the characteristic)

when multiple versions over the multiple selection sources are available. As a result, the examiner maintains rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7, 9-22, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski (6,003,041) in view of Zigmond et al. (US Pat. 6,698,020).

Regarding claims 1, 10 and 16, Wugofski discloses an electronic device (i.e. a convergence device) comprising the method systems of:

Receiving an electronic programming guide at the electronic device (see Wugofski: column 4, lines 50-66).

Receiving a selection of an entertainment program with in the electronic programming guide from a user at the electronic device (see Wugofski: column 4, lines 40-44)

Identifying multiple available versions of the same selected entertainment program in the electronics program guide (see Wugofski: column 5, lines 5-12, and Fig. 4)

Identifying for each of the multiple versions, a set of characteristics of each respective versions of the same selected entertainment program (wherein

“characteristic” refers to the respective input selection source for the entertainment program; see Wugofski: figure 4, column 423)

Wugofski further discloses selecting by the electronic device, one of the multiple versions of the entertainment program for display (see column 3, lines 29-44, column 4, lines 37-44, column 5, lines 5-7), but fails to disclose that the selection is based on user preferences for entertainment program characteristics that are received from the user and stored at the at electronic device.

Zigmond discloses the step of storing a user preference of entertainment program characteristic stored at the electronic device (see column 13, lines 51-54), and further selecting by the electronic device, one of the different versions of a program using the stored user preference of entertainment program characteristic (see column 13, lines 55-58).

It would have been obvious to one of ordinary skill in the art at the time of the invention, to modify the system of Wugofski in view of Zigmond’s teachings by allowing the user to indicate a preference for program characteristic and presenting data meeting the program characteristic when multiple versions of the same entertainment program are available. The motivation is allow the electronic device to automatically provide the video feed in accordance with user preferences.

With further regards to claim 10, Wugofski shows a computer for controlling the system, which contains a storage medium having stored a plurality of instructions (col. 3 lines 45-67, col. 4 lines 1-33, fig. 2).

Regarding Claims 2, 11, and 17, Wugofski shows that the entertainment programs start within a threshold period of time of one another (col. 5 lines 1-14, 50-67, fig. 4).

Regarding Claims 3, 12 and 18, Wugofski shows that at least some of the multiple versions are provided on different transport media (col. 3 lines 1-26, col. 5 lines 1-67), the method further comprising identifying a set of descriptive information regarding the channel transport medium (col. 5 lines 1-15, lines 35-60), and wherein selecting comprises selecting one of the multiple versions for display based on the sets of channel transport medium descriptive information (col. 5 lines 35-67). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50).

Regarding Claims 4, 13, and 19, Wugofski shows receiving a selection of an entertainment program and identifying alternate versions of the selected entertainment program that all start at approximately the same time. See figure 4.

Regarding claims 5, 14 and 20, the modified system comprises the step of selecting one of the multiple versions having the identified characteristics (i.e. selection source identified in electronic program guide, see Wugofski: fig. 4) most closely resembling the user preferences for entertainment program characteristics (see Zigmond: column 13, lines 51-58).

Regarding Claims 7, 15, and 21, Wugofski shows that identified characteristic includes channel transport medium (see fig. 4). Wugofski shows information

pertaining to the device name, if the device is tunable or not, and signal source (see col. 5 lines 20-50).

Regarding Claim 9, Wugofski shows searching through data of an electronic programming guide (col. 4 lines 35-67, col. 5 lines 1-15).

Regarding Claim 22, Wugofski shows the ability of the user to manually input parental controls, which are preferences (col. 4 lines 22-25).

Regarding Claim 25, Wugofski shows a user interface that allows the user to manually input parental controls, which are preferences (col. 4 lines 8-33).

5. Claims 6, 8, 20, 23-24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski (6,003,041) in view of Zigmond et al. (US Pat. 6,698,020) as applied to claims 1, 10 and 16 above, and further in view of Rosser (US Pat. 6,446,261).

Regarding claims 6 and 20, the modified system comprises the step of selecting a video program based on various other characteristics (see Zigmond: column 13, lines 6-12), but does not comprise the step of selecting one of multiple versions having the most number of characteristics that conform to the user preferences.

Rosser teaches the step of using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an exclusive user database to select content). Rosser shows selecting one of a multiple of content versions based on a set of descriptive information most closely resembling the set of user preferences (col. 8 lines 20-63, col. 12 lines 55-67, col. 13 lines 1-12, 35-45).

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system in view of Rosser's teachings by selecting one of the multiple versions of the entertainment program having the most number of characteristics that conform to the user preferences in order to provide the user with a more customized stream of programming.

Regarding claims 8, 23, and 24, the modified system does not comprise the steps of identifying a user of an entertainment system, accessing user preferences for the identified user and then selecting one of the multiple versions for display based on the accessed user preferences.

Rosser teaches the step of using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an exclusive user database to select content). Rosser shows identifying a user of an entertainment system (col. 15 lines 5-28), accessing user preferences for the identified user (col. 15 lines 28), and selecting content from versions of content based on a comparison of the sets of descriptive information (col. 14 lines 50-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system in view of Rosser's teachings by identifying a user of the system and then selecting one of the multiple versions of the entertainment program conforming to the identified user's preferences in order to provide customized programming for each of the users a multi-user system.

With further regards to Claim 23 and 26, Rosser shows determining the user preferences by monitoring the behavior of the user (col. 8 lines 1-55, col. 9 lines 50-67, col. 12 lines 1-5).

6. Claims 1-5, 7, 9-22, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski (6,003,041) in view of Goldschmidt et al. (US Pat. 6,295,646).

The applied reference, Goldschmidt et al., has at least a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Regarding claims 1, 10 and 16, Wugofski discloses an electronic device (i.e. a convergence device) comprising the method systems of:

Receiving an electronic programming guide at the electronic device (see Wugofski: column 4, lines 50-66).

Receiving a selection of an entertainment program with in the electronic programming guide from a user at the electronic device (see Wugofski: column 4, lines 40-44)

Identifying multiple available versions of the same selected entertainment program in the electronics program guide (see Wugofski: column 5, lines 5-12, and Fig. 4)

Identifying for each of the multiple versions, a set of characteristics of each respective versions of the same selected entertainment program (wherein "characteristic" refers to the respective input selection source for the entertainment program; see Wugofski: figure 4, column 423)

Wugofski further discloses selecting by the electronic device, one of the multiple versions of the entertainment program for display (see column 3, lines 29-44, column 4, lines 37-44, column 5, lines 5-7), but fails to disclose that the selection is based on user preferences for entertainment program characteristics that are received from the user and stored at the at electronic device.

Goldschmidt teaches in a convergence device system, the step of receiving from the user a preference for entertainment program characteristics (wherein characteristics indicates preference of entertainment selection source), storing the preference at the electronic device and later using the preference for outputting the

video data corresponding to the preferred selection source to the user. See Goldschmidt: column 7, lines 41-46, lines 31-36, column 9, lines 55-63.

It would have been obvious to one of ordinary skill in the art at the time of the invention, to modify the system of Wugofski in view of Goldschmidt's teachings by allowing the user to indicate a preference for a selection source and tuning to the video data provided by that selection source, when multiple versions of the same entertainment program are available. The motivation is allow the electronic device to automatically provide the video feed in accordance with user preferences.

With further regards to claim 10, Wugofski shows a computer for controlling the system, which contains a storage medium having stored a plurality of instructions (col. 3 lines 45-67, col. 4 lines 1-33, fig. 2).

Regarding Claims 2, 11, and 17, Wugofski shows that the entertainment programs start within a threshold period of time of one another (col. 5 lines 1-14, 50-67, fig. 4).

Regarding Claims 3, 12 and 18, Wugofski shows that at least some of the multiple versions are provided on different transport media (col. 3 lines 1-26, col. 5 lines 1-67), the method further comprising identifying a set of descriptive information regarding the channel transport medium (col. 5 lines 1-15, lines 35-60), and wherein selecting comprises selecting one of the multiple versions for display based on the sets of channel transport medium descriptive information (col. 5 lines 35-67). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (col. 5 lines 20-50).

Regarding Claims 4, 13, and 19, Wugofski shows receiving a selection of an entertainment program and identifying alternate versions of the selected entertainment program that all start at approximately the same time. See figure 4.

Regarding claims 5, 14 and 20, the modified system comprises the step of selecting one of the multiple versions having the identified characteristics (i.e. selection source identified in electronic program guide, see Wugofski: fig. 4) most closely resembling the user preferences for entertainment program characteristics (see Goldschmidt: column 9, lines 55-63).

Regarding Claims 7, 15, and 21, Wugofski shows that identified characteristic includes channel transport medium (see fig. 4). Wugofski shows information pertaining to the device name, if the device is tunable or not, and signal source (see col. 5 lines 20-50).

Regarding Claim 9, Wugofski shows searching through data of an electronic programming guide (col. 4 lines 35-67, col. 5 lines 1-15).

Regarding Claim 22, Wugofski shows the ability of the user to manually input parental controls, which are preferences (col. 4 lines 22-25).

Regarding Claim 25, Wugofski shows a user interface that allows the user to manually input parental controls, which are preferences (col. 4 lines 8-33).

7. Claims 6, 8, 20, 23-24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski (6,003,041) in view of Goldschmidt et al. (US Pat. 6,295,646) as applied to claims 1, 10 and 16 above, and further in view of Rosser (US Pat. 6,446,261).

The applied reference, Goldschmidt et al., has at least a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2).

Regarding claims 6 and 20, the modified system comprises the step of selecting a video program based on various other characteristics (see Goldschmidt: column 8, lines 36-39), but does not comprise the step of selecting one of multiple versions having the most number of characteristics that conform to the user preferences.

Rosser teaches the step of using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an exclusive user

database to select content). Rosser shows selecting one of a multiple of content versions based on a set of descriptive information most closely resembling the set of user preferences (col. 8 lines 20-63, col. 12 lines 55-67, col. 13 lines 1-12, 35-45).

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system in view of Rosser's teachings by selecting one of the multiple versions of the entertainment program having the most number of characteristics that conform to the user preferences in order to provide the user with a more customized stream of programming.

Regarding claims 8, 23, and 24, the modified system does not comprise the steps of identifying a user of an entertainment system, accessing user preferences for the identified user and then selecting one of the multiple versions for display based on the accessed user preferences.

Rosser teaches the step of using a set of user preferences to select one of multiple versions of content (col. 7 lines 45-57, col. 8 lines 20-65, col. 10 lines 20-35, col. 12 lines 1-20, 60-67, col. 13 lines 35-48, collecting data for an exclusive user database to select content). Rosser shows identifying a user of an entertainment system (col. 15 lines 5-28), accessing user preferences for the identified user (col. 15 lines 28), and selecting content from versions of content based on a comparison of the sets of descriptive information (col. 14 lines 50-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system in view of Rosser's teachings by identifying a user of the system and then selecting one of the multiple versions of the

entertainment program conforming to the identified user's preferences in order to provide customized programming for each of the users a multi-user system.

With further regards to Claim 23 and 26, Rosser shows determining the user preferences by monitoring the behavior of the user (col. 8 lines 1-55, col. 9 lines 50-67, col. 12 lines 1-5).

Conclusion

8. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Art Unit: 2623

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UR


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600